



STATE OF TENNESSEE
Department of Financial Institutions
Compliance Division
414 Union Street, Suite 1000
Nashville, TN 37219
615/741-3186

APPLICATION FOR A CHECK CASHERS LICENSE

Application is hereby made for a license pursuant to Chapter 309, Public Acts of 1997, to transact business as a Check Cashing Business.

1. Name of Applicant

Full exact name of person, corporation, partnership, sole proprietorship, or other entity, for which application is made.

Legal name of applicant, if different from above.

**2. Principal Place of Business
in Tennessee**

Number and Street Address

City

County

State

Zip Code

Telephone Number

Fax Number

E-mail Address

Name of manager at this location

3. Federal Tax ID Number

**Social Security Number for Applicants
Applying as Individuals**

4. Mailing Address and Phone Numbers for:

Person responsible for matters relating to this application

Person responsible for responding to inquiries regarding the applicant:

Name and Title

Name and Title

Company

Company

Number and Street

Number and Street

City, State, Zip

City, State, Zip

() (800)

Phone Number(s)

() (800)

Phone Number(s)

Fax Number

E-Mail Address

Fax Number

E-Mail Address

5. Check and complete whichever is applicable:

(a) _____ Individual doing business under own name:

Number and Street Address for Residence

City

County

State

Zip Code

Telephone number for residence

(b) _____ Individual doing business under assumed name (d/b/a):

Number and Street Address for Residence

City

County

State

Zip Code

Telephone Number for Residence

(c) _____ Corporation

State of Incorporation/Organization _____ Date Incorporated _____

Parent Company, if applicable _____

Tennessee Secretary of State Corporate Identification Number _____. Attach a copy of the charter or certificate of incorporation. If a foreign corporation, attach a copy of certificate of authority to do business in Tennessee.

(d) _____ Corporation Doing Business Under an Assumed Name (d/b/a).

State of Incorporation/Organization _____ Date Incorporated _____

Parent Company, if applicable _____

Tennessee Secretary of State Corporate Identification Number _____. Attach a copy of the charter or certificate of incorporation. If a foreign corporation, attach a copy of certificate of authority to do business in Tennessee.

(e) _____ Limited Liability Company:

Attach a copy of the articles of organization and operating agreement along with amendments.

(f) _____ Limited Partnership:

Attach a copy of the certificate of limited partnership and the partnership agreement along with any amendments.

(g) _____ General Partnership:

Attach a copy of the partnership agreement along with any amendments.

(h) _____ Trust:

Attach a copy of the trust agreement along with any amendments.

(i) _____ Franchise:

Attach a copy of the franchise agreement.

(j) _____ Other:

Please explain: _____

6. FEES. The investigation fee is \$100. The application fee is \$500 per office location. If the application for a license is denied, the application fee and the investigation fee are not subject to refund. If the license is granted, the application fee shall constitute the license fee for the first license year or part thereof. The license expires on September 30. The license renewal date is September 1. **Make check payable to the Department of Financial Institutions.**

7. REGISTERED AGENT.

Name of Tennessee registered agent and title

Number and street address

City County State Zip Code

Phone Number Fax Number E-Mail Address

8. BRANCH OFFICES. (\$500 application fee for each branch must accompany application): Indicate N/A if there are no branch locations.

(a) _____
Name of Business Phone Number

Number and Street Address Fax Number

City, State, Zip Code Manager

(b) _____
Name of Business Phone Number

Number and Street Address Fax Number

City, State, Zip Code Manager

(c) _____
Name of Business Phone Number

Number and Street Address Fax Number

City, State, Zip Code Manager

(d) _____
Name of Business Phone Number

Number and Street Address Fax Number

City, State, Zip Code Manager

NOTE: Attach additional sheets if more than four branch locations.

9. OTHER OFFICES. Please provide the following information regarding other offices in Tennessee (other than those listed in question #8) at which a Check Cashing Business is or will be conducted that are affiliated with the applicant, or any owner, partner, L.L.C. member, director, officer, five percent (5%) or more shareholder or beneficiary (of a trust) of the applicant:

(a)	_____	_____
	Name of Business	Phone Number
	_____	_____
	Number and Street Address	Fax Number
	_____	_____
	City, State, Zip Code	Manager
(b)	_____	_____
	Name of Business	Phone Number
	_____	_____
	Number and Street Address	Fax Number
	_____	_____
	City, State, Zip Code	Manager
(c)	_____	_____
	Name of Business	Phone Number
	_____	_____
	Number and Street Address	Fax Number
	_____	_____
	City, State, Zip Code	Manager
(d)	_____	_____
	Name of Business	Phone Number
	_____	_____
	Number and Street Address	Fax Number
	_____	_____
	City, State, Zip Code	Manager

NOTE: Attach additional sheets if necessary.

- 10.** Provide a current list including the name, social security number, residence and business addresses, residence and business phone numbers, and title of each owner, partner, L.L.C. member, director, officer, five percent (5%) or more shareholder and beneficiary (of a trust) of the applicant.
- 11.** Provide a brief summary of the professional and educational background and experience of each person listed in response to questions #2, #8 and #10 (Resumes are acceptable).
- 12.** Provide a copy of a current **credit report** from a major credit bureau for the applicant and all persons listed in response to questions #2, #8, and #10. These credit reports must be dated within thirty (30) days prior to the date of the application. Provide an explanation of any negative information on the credit report.
- 13.** Is the applicant or any of its parent companies, subsidiaries, affiliates, owners, partners, L.L.C. members, directors, officers, five percent (5%) or more shareholder(s) or beneficiaries (of a trust) currently licensed and/or conducting business as a Check Cashing Business or similar type business in any other state(s)? Yes _____ No _____ If currently licensed or conducting business, please list the state(s) and the name and address of the business. If not currently licensed or conducting business, but have in the past, please list the state(s) and the name and address of the business, and add the time periods the applicant was licensed or conducted business.

14. Has the applicant or any of its parent companies, subsidiaries, affiliates, owners, partners, L.L.C. members, directors, officers, five percent (5%) or more shareholders or beneficiaries (of a trust) been indicted, convicted, pled guilty or pled nolo contendere to a felony in Tennessee or elsewhere? Yes _____ No _____ If yes, please explain fully.

15. Has the applicant or any of its parent companies, subsidiaries, affiliates, owners, partners, L.L.C. members, directors, officers, five percent (5%) more shareholders or beneficiaries (of a trust) been associated with a business whose authority to transact business was denied, revoked or suspended by a state or federal regulatory or law enforcement entity? Yes_____ No _____ If yes, please explain fully.

16. Has the Commissioner of Financial Institutions, any other agency of the State of Tennessee, any federal agency or any agency of any other state ever initiated a regulatory action or order against the applicant or any of its parent companies, subsidiaries, affiliates, owners, partners, L.L.C. members, directors, officers, five percent (5%) or more shareholders or beneficiaries (of a trust)? Yes _____ No _____ If yes, please explain fully.

17. Has the applicant, any of its parent companies, subsidiaries, affiliates, owners, partners, L.L.C. members, directors, officers, five percent (5%) more shareholders or beneficiaries (of a trust) ever applied for a license to the Commissioner of Financial Institutions, or any other state agency, to do business in the State of Tennessee. Include licenses for any company for whom applicant acts as an agent: Yes _____ No _____ If yes, provide copies of the licenses. List any applications withdrawn or denied.

18. Has the applicant, any of its parent companies, subsidiaries, affiliates, partners, L.L.C. members, directors, officers, five percent (5%) or more shareholder or beneficiaries (of a trust) been enjoined or restrained by order of any court from engaging in any conduct or practice related to the Check Cashing Business? Yes _____ No _____ If yes, please explain fully.

19. If the applicant is proposing to operate at a location where other business(es) is/are being conducted provide the name of the other business(es) and the type of business conducted.

20. **FINANCIAL STATEMENTS.** Provide a balance sheet and statement of income and expense for the immediately preceding fiscal year, prepared in accordance with generally accepted accounting principles by a certified public accountant or public accounting firm. For a newly created entity, provide a balance sheet, accompanied by a projected income statement, demonstrating that the applicant will have adequate capital after payment of start-up costs.

21. Does the applicant have any contingent liabilities as endorser, or guarantor, or otherwise? Include all pending litigation, and note any potential settlement amounts that could significantly affect the applicant's financial condition. Yes _____ No _____ If yes, provide details in an addendum to this application.

22. (a) Provide the following information relative to Lines of Credit. Attach additional sheets if necessary. If none, indicate below.

<u>Name of Creditor</u>	<u>Total Amount of Line</u>	<u>Amount Outstanding</u>	<u>Expiration Date</u>
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_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(b) Does the applicant have other available funding sources? Yes _____ No _____ If yes, submit a detailed list.

23. NOTARIZATION

I, _____, a duly authorized officer of _____
Name of Officer

_____ certify under the penalties of perjury that all statements above,
Name of Applicant

or attached hereto, are true to the best of my knowledge and belief.

Signature of Applicant or Authorized Officer

State of _____

County of _____

The following individual personally appeared before me: _____

who, being duly sworn according to law, deposes and says that the statements contained in the above application are true and correct.

Sworn and subscribed before me this _____ day of _____, _____.

Notary Public

NOTARY SEAL

BK-0239

CONFIDENTIAL BACKGROUND INFORMATION CONSENT FORM

By signing this consent, I understand and agree to the following:

The following information about me is necessary to assist the Department of Financial Institutions in evaluating the application of _____.
(Name of Applicant)

The information will be used to evaluate, among other things, my experience, character, business reputation, and general fitness.

I understand that omissions or inaccuracies in completing the application may result in denial of the application.

The Department may also conduct an independent investigation of me, which may include, but not limited to, contacting federal and state law enforcement agencies, other governmental agencies and credit reporting agencies. If any information the Department receives indicates a violation of law, the information will be shared with any agency responsible for the investigating or prosecuting the violation. If information about me would warrant denial of the application, the Department will give the applicant, through the person designated for contact, notice of the fact, including a statement of the statutory and factual basis which would warrant denial and applicant's rights in respect thereto.

First Name	MI	Last Name	Date of Birth
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Home Address	City	State	Zip Code
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Home Telephone Number _____

Driver's License Number	State	Social Security Number
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Other names by which I am now known or have used in the past:

Signature _____

Date _____

Chapter 18

Check Cashing Act

- 45-18-101. Short title. —
- 45-18-102. Chapter definitions. —
- 45-18-103. Application. —
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- 45-18-117. Civil penalties. —
- 45-18-118. Consent orders. —
- 45-18-119. Criminal penalties. —
- 45-18-120. Licensee's conduct — Written complaints. —
- 45-18-121. Check cashing — Practice and procedure. —

45-18-101. Short title. —

This chapter shall be known and may be cited as the “Check Cashing Act of 1997.”

[Acts 1997, ch. 309, § 1.]

Cross-References. Check cashing regulations, § 45-17-102.

Negotiable instruments, title 47, ch. 3.

Collateral References. Banks and Banking <key> 6, 137, 189.

45-18-102. Chapter definitions. —

As used in this chapter, unless the context requires otherwise:

- (1) “Applicant” means a person filing an application for a license under this chapter;
- (2) “Check” means any payment instrument;
- (3) “Check casher” means a person who, for compensation, provides currency in exchange for payment instrument received;
- (4) “Commissioner” means the commissioner of financial institutions;
- (5) “Consideration” means and includes any premium charged for the sale of goods, or services provided in connection with the sale of the goods that is in excess of the cash price of the goods or services;
- (6) “Control” means ownership of, or the power to vote, twenty-five percent (25%) or more of the outstanding voting securities of a licensee controlled by any person. There shall be aggregated with the person's interest the interest of any other person controlled by the person or by any spouse, parent, or child of the person;
- (7) “Currency” means the coin and paper money of the United States or of any other country that is designated as legal tender and that circulates and is customarily used and accepted as a medium of exchange in the country of issuance. “Currency” includes United States silver certificates, United States notes, and Federal Reserve notes. “Currency” also includes official foreign bank notes that are customarily used and accepted as a medium of exchange in a foreign country;
- (8) “Department” means the department of financial institutions;
- (9) “Licensee” means a check cashing business licensed by the commissioner to engage in that business in accordance with this chapter;
- (10) “Material litigation” means any litigation that, according to generally accepted accounting principles, is deemed significant to a person's financial health and would be required to be referenced in annual audited financial statements, reports to shareholders or similar documents;
- (11) “Payment instrument” means a check, draft, warrant, money order, traveler's check or other instrument for payment of money, whether or not negotiable. “Payment instrument” does not include an instrument that is redeemable by the issuer in merchandise or service, a credit card voucher, or a letter of credit; and
- (12) “Person” means any individual, partnership, association, trust, corporation, limited liability company, or other group, however organized, but does not include the governments of the United States or this state or any department, agency, or instrumentality thereof.

[Acts 1997, ch. 309, § 2.]

Section to Section References. This section is referred to in § 45-18-110.

Attorney General Opinions. Recovery of attorney fees, costs and other charges by check casher, OAG 98-070 (3/25/98).

45-18-103. Application. —

This chapter does not apply to:

(1) Any bank, trust company, credit union, building and loan association, savings bank or mutual bank organized under the laws of any state or the United States;

(2) Persons who offer a check cashing service without receiving, directly or indirectly, any consideration or fee; and

(3) Persons engaged in the cashing of payment instruments that is incidental to the retail sale of goods or services, whose compensation for cashing payment instruments at each site does not exceed five percent (5%) of the gross receipts from the retail sale of goods or services by the person during the person's most recently completed fiscal year.

[Acts 1997, ch. 309, § 3; 2007, ch. 80, § 1.]

Amendments. The 2007 amendment deleted former (2) and (3) which read:“(2) Money transmitters licensed in the state of Tennessee; provided, that money transmitter agents are not exempt from the provisions of this chapter;“(3) Industrial loan and thrift companies holding a certificate of registration in Tennessee;” and redesignated former (4) and (5) as present (2) and (3), respectively.

Effective Dates. Acts 2007, ch. 80, § 3. October 1, 2007.

Section to Section References. This section is referred to in § 45-18-120.

Attorney General Opinions. Recovery of attorney fees, costs and other charges by check casher, OAG 98-070 (3/25/98).

45-18-104. License requirement. —

(a) No person shall engage in, or in any manner advertise engagement in, the business of cashing payment instruments without first obtaining a license under the provisions of this chapter. A separate license shall be required for each location from which the business is conducted.

(b) Any licensed money transmitter or registered industrial loan and thrift company engaged in the business of cashing payment instruments on October 1, 2007, may continue to engage in

the business of cashing payment instruments without a license issued by the commissioner, until the commissioner has acted upon the application for license, if the application is filed by December 31, 2007.

[Acts 1997, ch. 309, § 4; 2007, ch. 80, § 2.]

Amendments. The 2007 amendment added (b).

Effective Dates. Acts 2007, ch. 80, § 3. October 1, 2007.

45-18-105. Qualifications of licensee. —

(a) Each applicant for a license shall demonstrate, and each licensee shall maintain, a minimum net worth of at least twenty-five thousand dollars (\$25,000) for each location.

(b) Every corporate applicant, at the time of filing an application for a license under this part and at all times after a license is issued, shall be in good standing in the state of its incorporation. All applicants, whether corporate or noncorporate, at the time of filing an application for a license under this part and at all times after a license is issued, shall be qualified to do business in this state.

(c) Subject to the commissioner's discretion, no person shall be licensed under this chapter to do business in the state if the person has been adjudged guilty of any felony or if an executive officer, key shareholder or director of the person has been so adjudged. For purposes of this part, a person shall be deemed to have been convicted of a crime if the person has either pleaded guilty to, pled nolo contendere to, obtained a pretrial diversion or been found guilty of a charge before a court or federal magistrate, or by the verdict of a jury, regardless of the pronouncement of sentence or the suspension of the sentence. The department may take into consideration the fact that the plea of guilty, or the decision, judgment, or verdict, has been set aside, reversed, or otherwise abrogated by lawful judicial process, or that the person convicted of the crime received a pardon from the jurisdiction where the conviction was entered, or received a certificate pursuant to any provision of law that removes the disability under this part because of the conviction.

(d) The department may deny an initial application for a license if the applicant is the subject of a pending criminal prosecution or governmental enforcement action, in any jurisdiction, until the conclusion of the criminal prosecution or enforcement action.

(e) All applicants shall demonstrate experience, character, and general fitness to command the confidence of the public and warrant the belief that the business to be operated thereunder will be operated lawfully and fairly. This requirement is continuing in nature. In determining whether this qualification has been met, the commissioner may review:

(1) The business records and the capital adequacy of the applicant;

(2) The competence, experience, integrity, and financial ability of any person who is a director, officer, supervisory employee or five percent (5%) shareholder of the applicant or owns or controls the applicant; and

(3) Any record, on the part of the applicant or any person referenced in subdivision (e)(2) of any criminal activity, any fraud or other act of personal dishonesty, any act, omission, or practice that constitutes a breach of a fiduciary duty or any suspension, removal or administrative action by any agency or department of the United States or any state, from participation in the conduct of any business.

(f) The commissioner may deny a license pursuant to this chapter to any applicant whose license or registration was revoked in any jurisdiction during the twelve-month period before the date of the application.

[Acts 1997, ch. 309, § 5.]

45-18-106. Application for license. —

Each application for a license under this chapter shall be made in writing under oath, and in a form prescribed by the commissioner.

[Acts 1997, ch. 309, § 6.]

45-18-107. Application fee — Financial statements. —

Each application for a license shall be accompanied by:

(1) An application fee of five hundred dollars (\$500), which is not subject to refund, but which, if the license is granted, shall constitute all or part of the license fee for the first license year or part thereof;

(2) Financial statements for the immediately preceding fiscal year end prepared in accordance with generally accepted accounting principles by a certified public accountant or public accounting firm; and

(3) A nonrefundable investigation fee of one hundred dollars (\$100).

[Acts 1997, ch. 309, § 7.]

45-18-108. Issuance of license. —

(a) Upon the filing of a properly completed application, accompanied by the nonrefundable

application fee, the nonrefundable investigation fee and other required documents, the department shall investigate to ascertain whether the qualifications and requirements prescribed by this chapter have been met. If the department finds the applicant meets the qualifications and requirements, the department shall issue the applicant a license to engage in the check cashing business in this state. Any license issued under this chapter shall remain in effect through September 30 of each year following its date of issuance unless otherwise specified by the department or earlier surrendered, suspended, or revoked. If the commissioner finds that the qualifications and requirements prescribed by this chapter have not been met, the commissioner shall deny the application in writing setting forth the reasons for the denial.

(b) The commissioner shall approve or deny every application for a license within ninety (90) days from the date a completed application with all required fees and documents is submitted, which period may be extended by the written consent of the commissioner. If the commissioner denies an application, or if the commissioner fails to act on an application within ninety (90) days after its filing, the applicant may make written demand to the department for a hearing before the commissioner on the question of whether the license should be granted.

(c) Any hearing on the denial of a license shall be conducted pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. In the hearing, the burden of proving that the applicant is entitled to a license is on the applicant. Decisions of the commissioner following any hearing on the denial of a license are subject to review under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(d) Licenses are not transferable or assignable.

[Acts 1997, ch. 309, § 8.]

Code Commission Notes.

Former subsection (e), concerning filing an application for a license within ninety days of October 1, 1997, was deemed obsolete by the code commission in 2007.

45-18-109. License renewal. —

(a) Each license may be renewed upon application by the licensee showing continued compliance with the qualifications for a license and the filing of a completed renewal form and payment of a nonrefundable renewal fee of five hundred dollars (\$500). The department shall send the renewal form to each licensee no later than August 1. The completed renewal form and payment of the renewal fee shall be sent to the department on or before September 1 of each year.

(b) The licensee shall include in its annual renewal report:

(1) A copy of its most recent unconsolidated annual financial statement, including balance sheet, statement of income or loss, statement of changes in shareholder's equity and statement of changes in financial position, except that a licensee may provide the most recent consolidated annual financial statement of the parent corporation if the statement includes the balance sheet, statement of income or loss, statement of changes in shareholder's equity and statement of changes of financial position of the licensee;

(2) Any material changes to any of the information submitted by the licensee on its original application that have not previously been reported to the commissioner on any other report required to be filed under this chapter;

(3) Notification of material litigation relating to the businesses regulated under this chapter; and

(4) Other information that the commissioner may deem appropriate for the proper enforcement of this chapter.

(c) A licensee that has not filed a renewal report or paid its renewal fee by the renewal filing deadline and has not been granted an extension of time to do so by the commissioner shall be notified by the commissioner, in writing, that a hearing will be scheduled, at which time the licensee will be required to show cause why its license should not be suspended pending compliance with these requirements.

(d) Unless excused for good cause by the commissioner, each licensee who fails to remit the renewal fee and annual renewal application by September 1 of each year, shall forfeit to the commissioner a late fee of fifty dollars (\$50.00) per day until these requirements are met before the renewed license may be issued.

[Acts 1997, ch. 309, § 9.]

45-18-110. Licensee's change of address, name and/or ownership — Revocation of license. —

(a) No licensee shall change its address unless it has given fourteen (14) days prior notice to the commissioner.

(b) No licensee shall change its name unless it has given fourteen (14) days prior notice to the commissioner.

(c) A change in control of a licensee shall require prior written notice to the commissioner. In the case of a publicly traded corporation, notice shall be made in writing within thirty (30) days of a proposed change or acquisition of control of a licensee. Upon notification, the commissioner may require such information deemed necessary to determine whether an application for a license is required. "Control," in the case of a corporation, has the meaning

used in § 45-18-102. “Control,” in the case of any other entity, means any change in the principals of the organization, whether active or passive. Costs incurred by the department in investigating a change in control request shall be paid by the person or persons requesting approval. The commissioner may waive the filing of an application if, in the commissioner's discretion, the change of control does not pose any risk to the interests of the public.

(d) Whenever control of a licensee is acquired or exercised in violation of this section, the license shall be deemed revoked as of the date of the unlawful acquisition of control. The licensee, or its controlling person, shall surrender the license to the commissioner on demand.

(e) If the commissioner approves of the change of name, location or ownership and an amended license must be issued, a fifty dollar (\$50.00) fee shall be paid for the amended license.

[Acts 1997, ch. 309, § 10.]

45-18-111. Location of check cashing business. —

A licensee may operate the businesses regulated under this chapter at a location where any other business is operated or in association or conjunction with any other business as long as the licensee gives prior written notification to the commissioner and the other business is consistent with the following requirements:

(1) The books, accounts and records of businesses regulated under this chapter are kept and maintained separate and apart from the books, accounts, and records of any other business; and

(2) The other business is not of a type that would tend to enable the concealment of acts engaged in to evade the requirements of this chapter. If the commissioner determines upon investigation that the other business is of the type that would conceal the acts, the commissioner shall order the licensee to cease the operation of the businesses regulated under this chapter at that location.

[Acts 1997, ch. 309, § 11.]

45-18-112. Filing of written report with commissioner — Events impacting activities of licensee. —

Within fifteen (15) days of the occurrence of any one (1) of the events listed in subdivisions (1)-(6), a licensee shall file a written report with the commissioner describing the event and its expected impact on the activities of the licensee in the state:

(1) The filing for bankruptcy or reorganization by the licensee;

(2) The institution of revocation or suspension proceedings against the licensee by any state or governmental authority;

(3) The denial of the opportunity to engage in the check cashing business by any state or governmental authority;

(4) Any felony indictment of the licensee or any of its officers, directors or principals;

(5) Any felony conviction of the licensee or any of its officers, directors, or principals;
and

(6) Other events that the commissioner may determine and identify by rule.

[Acts 1997, ch. 309, § 12.]

45-18-113. Examination of licensee by commissioner. —

(a) The commissioner may conduct periodic examinations of a licensee to determine compliance with the provisions of this chapter. In conducting the examination, the commissioner or the commissioner's staff shall have full and free access to all the books, papers and records of the licensee and may summon and qualify as witnesses, under oath, and examine the directors, officers, members, agents and employees of any licensee, and any other person concerning the condition and affairs of the licensee. The department may charge and collect an examination fee of two hundred dollars (\$200) per day per examiner for any compliance examination conducted by the department, which fee in the aggregate shall not exceed one thousand two hundred dollars (\$1,200) per licensed location per year.

(b) Upon reasonable cause, the commissioner may conduct an examination of any unlicensed person to determine whether violations of this chapter have occurred or are occurring. In conducting the examination, the commissioner has the ability to summon witnesses and examine them under oath concerning matters relating to the business of the persons or other matters that may be relevant to the discovery of a violation of this chapter, including, but not limited to, the conduct of business without a license as required under this chapter.

(c) The commissioner may promulgate reasonable regulations in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, for the enforcement of this chapter. A copy of any rule or regulation adopted by the commissioner shall be mailed to each license holder at least thirty (30) days before the date it takes effect.

(d) The commissioner is authorized to disclose information obtained pursuant to this chapter to any local, state or federal agency as the commissioner deems proper.

[Acts 1997, ch. 309, § 13; 2006, ch. 596, § 2.]

45-18-114. Required records. —

(a) Each licensee shall make, keep and preserve the books, accounts, records, and

documents as the commissioner may determine by rule.

(b) All records of the check cashing business shall be maintained separately by the licensee from any other business in which the licensee may engage.

[Acts 1997, ch. 309, § 14.]

45-18-115. Suspension or revocation of license. —

(a) After notice and an opportunity for a hearing, the commissioner may suspend or revoke a license if the commissioner finds that:

(1) Any fact or condition exists that, if it had existed at the time when the licensee applied for its license, would have been grounds for denying the application;

(2) The licensee violates any provision of this chapter or any rule or order validly promulgated or issued by the commissioner;

(3) The licensee refuses to permit the commissioner to make any examination authorized by this chapter;

(4) The licensee willfully fails to make any report or pay any fee required by this chapter;

(5) The licensee has been found guilty of or liable for any fraudulent act or practice;

(6) The licensee has made any material false representation to the commissioner in any application or report filed with the commissioner; or

(7) The licensee has abandoned its place of business for a period of sixty (60) days or more.

(b) The commissioner may only revoke or suspend the particular license with respect to which grounds for revocation or suspension may occur or exist unless the commissioner finds that the grounds for revocation or suspension are of general application to all offices or to more than one (1) office operated by the licensee, in which case the commissioner may revoke or suspend all of the licenses issued to the licensee.

[Acts 1997, ch. 309, § 15.]

45-18-116. Hearing. —

The provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, apply to any hearing afforded pursuant to this chapter.

[Acts 1997, ch. 309, § 16.]

45-18-117. Civil penalties. —

If, after notice and an opportunity for a hearing, the commissioner finds that a person has violated this chapter or a rule adopted under this chapter, the commissioner may, in addition to all other powers conferred in this chapter:

(1) Order the person to cease and desist violating the chapter or its rules and require the refund of any fees collected by the person in violation of this chapter; and

(2) Order the person to pay to the commissioner a civil penalty in an amount specified by the commissioner, not to exceed one thousand dollars (\$1,000) for each violation or, in the case of a continuing violation, one thousand dollars (\$1,000) for each day that the violation continues.

[Acts 1997, ch. 309, § 17.]

45-18-118. Consent orders. —

(a) The commissioner may enter into consent orders at any time with any person to resolve any matter arising under this chapter. A consent order shall be signed by the person to whom it is issued or a duly authorized representative, and must indicate agreement to the terms contained therein. A consent order need not constitute an admission by any person that any provision of this chapter, or any rule, regulation or order promulgated or issued under this chapter has been violated, nor need it constitute a finding by the commissioner that the person has violated any provision of this chapter or any rule, regulation or order promulgated or issued under this chapter.

(b) Notwithstanding the issuance of a consent order, the commissioner may seek civil penalties or compromise civil penalties concerning matters encompassed by the consent order.

(c) In cases involving extraordinary circumstances requiring immediate action, the commissioner may take any enforcement action authorized by this chapter without providing the opportunity for a prior hearing, but shall promptly afford a subsequent hearing upon an application to rescind the action taken that is filed with the commissioner within twenty (20) days of the receipt of the notice of the commissioner's emergency action.

[Acts 1997, ch. 309, § 18.]

45-18-119. Criminal penalties. —

(a) Any person who knowingly and willfully violates any provision of this chapter or any order or rule pursuant thereto for which a penalty is not specifically provided commits a Class C misdemeanor. Each day the violation occurs is a separate offense.

(b) Any person who knowingly and willfully makes a material, false statement in any document filed or required to be filed under this chapter with the intent to deceive the recipient of the document commits a Class E felony.

(c) Any person who knowingly and willfully fails to file a document required to be filed under this chapter commits a Class E felony.

(d) Any person who carries on an unauthorized check cashing business commits a Class E felony.

(e) Any person who obstructs or endeavors to obstruct a lawful examination of a licensee commits a Class E felony.

(f) It is the duty of the commissioner to submit to the appropriate district attorney general for the respective counties of the state any criminal violation of this chapter known by the commissioner to have occurred in the county. The commissioner shall also report the violation to the appropriate division of the Tennessee bureau of investigation. The commissioner may provide the information to the attorney general and reporter or the appropriate federal authorities, or both, as the commissioner deems proper. Confidential information that is communicated by the commissioner pursuant to this section remains confidential in the hands of the agency to which the information is reported, and does not become a matter of public record by virtue of this communication.

(g) In addition to the criminal penalty provided for in this section, the commissioner may also commence an action to enjoin the operation of the business through a cease and desist order.
[Acts 1997, ch. 309, § 19.]

Cross-References. Confidentiality of public records, § 10-7-504.

Penalty for Class C misdemeanor, § 40-35-111.

Penalty for Class E felony, § 40-35-111.

45-18-120. Licensee's conduct — Written complaints. —

(a) Any person aggrieved by the conduct of a licensee under this chapter in connection with the regulated activities, may file a written complaint with the commissioner who may investigate the complaint.

(b) In the course of the investigation of the complaint, the commissioner may:

(1) Subpoena witnesses;

(2) Administer oaths;

(3) Examine any individual under oath; and

(4) Compel the production of records, books, papers, contracts, or other documents relevant to the investigation.

(c) If any person fails to comply with a subpoena of the commissioner under this chapter or to testify concerning any matter about which the person may be interrogated under this chapter, the commissioner may petition any court of competent jurisdiction for enforcement.

(d) The license of any licensee under this chapter who fails to comply with a subpoena of the commissioner may be suspended pending compliance with the subpoena.

(e) The commissioner has the administrative power to investigate and enforce any and all complaints filed by any person that are not criminal in nature, which complaint relates to check cashing businesses, including licensees hereunder and those who are exempt under § 45-18-103.

[Acts 1997, ch. 309, § 20.]

45-18-121. Check cashing — Practice and procedure. —

(a) Before a licensee deposits with any financial institution a payment instrument that is cashed by a licensee, the item must be endorsed with the actual name under which the licensee is doing business. Additionally, the words “Licensed Check Cashing Business” must be written legibly or stamped immediately after or below the name of the endorser.

(b) Licensees shall comply with all applicable federal statutes governing currency transaction reporting.

(c) Every licensee shall display its license and post a notice containing its charges for services regulated under this chapter.

(d) Licensees may not alter or delete the date on any check cashed.

(e) Licensees shall issue a receipt for each check cashing transaction upon request. The receipt shall include, among other matters the licensee may desire to include, the amount of the check and the total fee charged.

(f) The maximum fee a licensee may charge for a bad check is twenty dollars (\$20.00).

(g) No licensee may advertise, print, display, publish, distribute, or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, any statement or representation that is false, misleading, or deceptive, or that omits material information.

(h) Within ten (10) business days after being advised by the payor financial institution that a

payment instrument has been altered, forged, stolen, obtained through fraudulent or illegal means, negotiated without proper legal authority, or represents the proceeds of illegal activity, the licensee shall notify the police department in the city or town where the office of the licensee is located at which the check was cashed. If a payment instrument is returned to the licensee by the payor financial institution for any of the aforementioned reasons, the licensee may not release the payment instrument without the consent of the city or town police department, or other investigative law enforcement authority.

(i) No licensee shall issue coupons, gift certificates or tokens to be used in lieu of money when cashing a check.

(j) No licensee shall require the customer to receive payment by a method that causes the customer to pay additional or further fees and charges to the licensee or other person.

(k) No licensee shall conduct a business regulated under this chapter at a location other than the licensed location.

(l) No licensee shall receive any other charges or fees in addition to the fees listed in this chapter.

(m) Licensees shall pay to every customer tendering a payment instrument to be cashed the entire face amount of the instrument in cash, less any charges permitted by law, on the same date upon which the instrument is presented.

(n) Licensees shall not require that a customer cash two (2) separate checks in a manner to avoid the limitations on the fees a licensee can charge.

(o) No check casher shall:

(1) Charge check cashing fees, except as otherwise provided in this chapter, in excess of five percent (5%) of the face amount of the payment instrument or five dollars (\$5.00), whichever is greater;

(2) Charge check cashing fees in excess of three percent (3%) of the face amount of the payment instrument, or two dollars (\$2.00), whichever is greater, if the payment instrument is the payment of any kind of state public assistance or federal social security benefit payable to the bearer of the payment instrument; or

(3) Charge check cashing fees for personal checks or money orders in excess of ten percent (10%) of the face amount of the personal check or money order or five dollars (\$5.00), whichever is greater.

(p) No licensee shall agree to hold a payment instrument for later deposit.

(q) Licensees may charge a customer with a one-time membership fee not to exceed ten dollars (\$10.00).

[Acts 1997, ch. 309, § 21.]

Attorney General Opinions. Recovery of attorney fees, costs and other charges by check casher, OAG 98-070 (3/25/98).